



**DEPARTMENT OF PERSONNEL**

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**MEMO PERD #38/03**

November 17, 2003

TO: Designees for Personnel Rules Distribution

FROM: Jeanne Greene, Director  
Department of Personnel

SUBJECT: Permanent Changes to NAC 284

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Enclosed are new or revised regulations which were adopted by the Personnel Commission on September 19, 2003. All but one of these regulation changes became effective on October 30, 2003, the date they were filed with the Secretary of State. The new regulation regarding sexual harassment prevention training will become effective on January 1, 2004. The changes to the regulations appear in bold type.

Please see that all administrators and personnel representatives, as appropriate, are advised of these changes. You may wish to reproduce these pages and distribute them to all personnel rule recipients. These revisions are also available on our website at <http://dop.nv.gov/>.

Thank you for all your assistance. Once the Legislative Counsel Bureau codifies the regulations, the pages will be reproduced in final form in sufficient quantity for distribution to all rule recipients.

JG:sb/sq

Attachments

cc: Agency Personnel Liaisons  
Agency Personnel Representatives

*New Section "Reviewing Officer" defined.*

*"Reviewing officer" means:*

- 1. The supervisor of the person who prepared a report on performance of an employee; or*
- 2. Such other person designated by the appointing authority,*

*who reviews the report on performance upon the request of the employee pursuant to paragraph (b) of subsection 4 of NAC 284.470.*

(Added to NAC by Dep't of Personnel by R038-03, eff. 10-30-2003)

*New Section. Determining seniority for the purposes of layoff.*

*1. For purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:*

- (a) The total number of years of continuous full-time equivalent service up to the effective date of the layoff must be included.*
- (b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) must be reduced by the following periods if those periods occurred during the 3 years immediately preceding the effective date of the layoff:*
  - (1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in a year;*
  - (2) For an exempt classified employee or exempt unclassified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in a year; and*
  - (3) Any time covered by a report on performance which rated the employee below standard except that no report on performance may be considered for the time covered within 75 calendar days before the notification of layoff was issued.*

*2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:*

- (a) The reduction may not include:*
  - (1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;*
  - (2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or*
  - (3) A military leave of absence pursuant to NRS 284.359.*
- (b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1, an employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation.*

*3. Except as otherwise provided in subsection 4, if seniority is otherwise equal, seniority must be determined in the following order:*

- (a) Total time within the occupational group;*

(b) *Total time within the department; and*

(c) *By lot.*

4. *For the purposes of reemployment, if seniority is otherwise equal, seniority must be determined by lot.*

(Added to NAC by Dep't of Personnel by R096-03, eff. 10-30-2003)

**NAC 284.010 Definitions. (NRS 284.155, 284.175)** As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 284.022 to 284.112, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

(Supplied in codification; A by Dep't of Personnel, 10-26-84; 4-19-88; 8-1-91; 7-6-92; 3-23-94; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R197-99, 1-26-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; R038-03, 10-30-2003)

**NAC 284.073 "Occupational study" defined. (NRS 284.155)** "Occupational study" means a classification study of a group of positions *or* related classes and class series, *or any combination thereof*, which is initiated by the Department of Personnel and subsequently approved by the Commission.

(Added to NAC by Dep't of Personnel, eff. 10-27-97; R038-03, 10-30-2003)

**NAC 284.126 Creation of new class, reclassification of position or reallocation of existing class. (NRS 284.155, 284.175)**

1. For the purposes of this section:

(a) "Agency personnel officer" means the director of personnel within the University and Community College System of Nevada or any person holding a position in the classified service with the title of personnel officer.

(b) "Significant change" means a change in the duties and responsibilities assigned to a position in a class that:

(1) Is outside of the scope of the class as described by the class specification;

(2) Is not part of the scope of responsibility of the position; and

(3) Results in the preponderance of duties and responsibilities being allocated to a different class.

2. If an appointing authority or an employee proposes the creation of a new class, a reclassification of a position to a different class or the reallocation of an existing class based upon a gradual accumulation of duties and responsibilities which results in a significant change and is intended to be permanent, the Department of Personnel or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or reallocation is approved, the Department of Personnel will allocate the position to one of the existing classes in the classification plan or to a new, revised or reallocated class as appropriate.

3. The effective date of the classification decision will be the date on which form NPD-19 is received by the Department of Personnel or agency personnel officer unless information that substantially affects the decision concerning the creation, reclassification or reallocation is received after this date. In that case, the effective date will be the date on which the appropriate information necessary to make the decision is received. However, the subsequent receipt of an application or examination score that confirms the qualifications of an incumbent will not have a bearing on the effective date. If the form was prepared but delayed due to an administrative or clerical error, the effective date must be determined by the appointing authority and must be based upon the date on which the form should reasonably have been submitted to the Department of Personnel or agency personnel officer. In no case, however, may a retroactive adjustment because of an administrative or clerical error exceed 6 months after the date of receipt.
4. If an agency makes or anticipates making a significant change in the duties for a position or the agency anticipates a reorganization which will require the reclassification of an existing position, the reallocation of an existing class or the creation of a new class, it shall advise the budget division of the department of administration or, in the case of the University and Community College System of Nevada, the budget division of the applicable institution. The proposed change may not be required of an employee nor be submitted to the Department of Personnel until funding for it is approved. If the change is approved by the Department of Personnel, the effective date will be determined by the Budget Division.
5. In effecting a reclassification pursuant to subsection 2 or 4, the appointing authority must review and take into consideration the organizational structure and the qualifications of the incumbent before assigning new duties to a position which are intended to be permanent. No position will be reclassified to a higher grade through the individual classification process if the incumbent does not meet the minimum qualifications for the higher level position. If an employee does not meet the minimum qualifications to reclassify his position, he is not eligible for promotion, but may be eligible for a special adjustment to his pay pursuant to NAC 284.206.
6. The establishment of a new class or reallocation of a class *in* an occupational study *which results in a fiscal cost* becomes effective when the funding is provided by the Legislature in the biennial operating budget for this state.
7. From the date *on which* the Department of Personnel formally announces the beginning of an occupational study until the date *on which* the occupational study *becomes effective*:
  - (a) An existing position in the occupational study that has a significant change may only be reclassified to an existing class.
  - (b) An existing class in the occupational study must not be reallocated to a different grade.
  - (c) A new position may be allocated to an existing class or a new class as determined by the Department of Personnel.

[Personnel Div., Rule II § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 8-14-90; 12-26-91; 11-16-95; 10-27-97; R098-99, 9-27-99; R147-01, 1-22-2002; R069-02, 8-14-2002; R038-03, 10-30-2003)

**NAC 284.170 Initial rate of pay; effect of promotion, demotion, transfer, reappointment or reemployment; minimum step for continuous employee; rate of pay for nonclassified or unclassified employee appointed to classified position. (NRS 284.155, 284.175)**

1. Except as otherwise provided in NAC 284.204 regarding adjustment of steps within the same grade and NAC 284.206 regarding special adjustments to pay, the following provisions govern the grade and the step at which an employee must be paid at the time of employment:
  - (a) If the employment is an initial appointment, the employee's base rate of pay must be set at step 1 of the grade of the position's class.
  - (b) If the employment is a reinstatement to a position which is:
    - (1) At the same grade as that of the employee's former position, he must be paid at or below the step which he held in his former position.
    - (2) At a lower grade than the employee's former position, he must be paid at or below the step in the lower grade which most closely corresponds to the base rate of pay of his former position.
    - (3) A result of the reallocation of the entire class because of a reclassification or a general pay increase, he must be paid at or below the step in the new grade which most closely corresponds to the base rate of pay of his former grade.
2. The following provisions govern the rate of pay which must be paid if an employee is promoted:
  - (a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:
    - (1) If the employee moves one or two grades above his former grade, he must be placed at the same step in the new grade as the step he held in his former grade.
    - (2) If the employee moves three or more grades above his former grade, the employee must be placed:
      - (I) At a step which is equivalent to an increase of two steps above the step he held in his former grade; or
      - (II) At the lowest step of the new grade,whichever pay is higher and in accordance with the provisions of subsection 8.
  - (b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his pay for more than 6 months of continuous full-time service.
  - (c) If an employee has been demoted, he may not receive a promotional increase in pay that is greater than the increase which he would have otherwise been entitled to receive had he not been demoted.
  - (d) This subsection does not apply when an employee is reemployed or reappointed to his former grade within 1 year after holding that grade.

3. Except as otherwise provided in this subsection and paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he was demoted as follows:
- (a) If the employee has attained permanent status in the class from which he was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him at a step in the grade of the class to which he was demoted which is:
    - (1) Equal to his present base rate of pay; or
    - (2) Equivalent to a decrease of not more than one step from his base rate of pay in the position from which he was demoted. Except as otherwise provided in paragraph (b), if the base rate of pay in the position from which he was demoted does not fall within the grade of the class to which he was demoted, the employee must be paid at a step in the grade of the class to which he was demoted which is equal to:
      - (I) The step he would have received if he had not been promoted to the position from which he was demoted; or
      - (II) The step he would have received if he had been employed in that class from the inception of his employment with the State of Nevada.
  - (b) An exception to subparagraph (2) of paragraph (a) may be granted by the appointing authority to pay an employee at a rate that does not fall within the grade of the class to which he is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:
    - (1) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he is demoted or his base rate of pay in the position from which he was demoted, whichever is less.
    - (2) The employee's base rate of pay in the position to which he was demoted will be frozen until it falls within the grade of the class to which he was demoted or for a maximum of 2 years after the date he was demoted, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.
    - (3) If the employee's frozen base rate of pay does not fall within the grade of the class to which he was demoted within the 2-year period, his base rate of pay will be adjusted to the highest step within the grade of the class to which he was demoted.
  - (c) If an employee accepts a promotion and is demoted before attaining permanent status in the class, he must be paid at a step in the grade of the class to which he was demoted which is equivalent to the base rate of pay to which he would have been entitled had he not been promoted.
  - (d) If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by paragraph (b), the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.

- (e) If an employee is demoted during his probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to which the employee was demoted that is not greater than his base rate of pay before the demotion.
- 4. Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he must be placed at the corresponding step in the same grade that he held before the transfer. Any exception to this subsection must be:
  - (a) Based on the provisions of NAC 284.204; or
  - (b) Approved by the Department of Personnel based upon a written request and justification for the exception submitted by the appointing authority.
- 5. If an employee is reappointed to a position which is in:
  - (a) The grade which he currently holds, he retains his step.
  - (b) A higher grade and the appointment occurs within 1 year after the date on which he last held the grade, he must be placed at the step which he last held in that grade.
  - (c) A higher grade and the reappointment occurs more than 1 year after he held that grade, his pay must be calculated pursuant to the provisions relating to promotion in subsection 2.

Any exception to this subsection must be approved by the Department of Personnel based upon a written request and justification for the exception submitted by the appointing authority.
- 6. Except as otherwise provided in subsection 7, if a person is reemployed at:
  - (a) The same grade, he must be placed at the step which he last held in that grade.
  - (b) A lower grade, he must be placed at a step which most closely corresponds to the base rate of pay which he held at the time of his layoff or separation.
  - (c) A higher grade and the appointment occurs within 1 year after the date on which he last held the grade, he must be placed at the step which he last held in that grade.

An exception to this subsection may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency that is not funded from the State General Fund or the University and Community College System of Nevada, as certified by the administrator of that agency or the System. If an exception is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains his right of reemployment.
- 7. If a person who is eligible for military reemployment is reemployed, the period of his military service must be included in calculating the step at which he will be placed.
- 8. An employee who has been continuously employed without a break in service may not have his step set below:
  - (a) Step 4 of any grade if his date of hire is before April 26, 1973; or
  - (b) Step 3 of any grade if his date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.
- 9. Except as otherwise provided in this subsection, if a nonclassified or unclassified employee or an employee included in the personnel system pursuant to the provisions of NRS 284.022 is

appointed without a break in service to the classified service, he may, at the discretion of the appointing authority:

- (a) Be paid at a step which corresponds to or is below his rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he is appointed;
- (b) Be paid at the first step in the new grade to which he is appointed; or
- (c) Receive a special adjustment to his pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.

An exception to this subsection may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.

- 10. An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 9 may not be paid at a step and grade which is greater than he received at the time he left the classified service, unless he has held the unclassified or nonclassified position for more than 1 year.
- 11. As used in this section, "present level of pay" means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee's pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.

[Personnel Div., Rule III § F, eff. 8-11-73; A 10-6-78]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 7-22-87; 9-17-87; 12-17-87; 7-21-89; 8-14-90; 8-1-91; 7-6-92; 3-23-94; 7-1-94; 3-1-96; R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; R038-03, 10-30-2003)

#### **NAC 284.206 Special adjustments to pay. (NRS 284.155, 284.175)**

- 1. The Department of Personnel may approve a special adjustment to *the pay of an employee pursuant to this section. A request for a special adjustment to pay may be initiated by an employee, the appointing authority or the Department of Personnel. A special adjustment to pay does not constitute a promotion.*
- 2. *An employee may receive a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay during any period which:*
  - (a) *The employee* works out of his class on a continuing basis and performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must *be* assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification *and carry* out the duties and responsibilities for at least 16 consecutive workdays before the increase becomes effective. The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay must not continue for more than 6 months in any 12-month period unless:
    - (1) *The employee* is underfilling a position pursuant to NAC 284.437 and a recruitment has failed to produce a sufficient number of applicants on the appropriate list
    - (2) *The duties and responsibilities that the employee has been carrying out have been assumed from one or more positions that have not been authorized to be filled*



*because of a hiring freeze or fiscal emergency. A hiring freeze or fiscal emergency must be certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency that does not receive money from the State General Fund or the University and Community College System of Nevada, certified by the administrator of that agency or the System.*

- (3) *The appointing authority submits a written request to the Director of the Department of Personnel accompanied by documentation justifying an extension of the 6-month period and certifies that money is available to pay for the continuation of the special adjustment to pay. The Director may authorize the continuation of the special adjustment to pay after receiving the request and documentation and determining that the extension of the 6-month period is a business necessity and in the best interest of the State.*
- (b) *The employee is* required to use bilingual skills or sign language for the deaf at least 10 percent of his work time.
- (c) *The employee is* supervising other employees of the same or a higher grade if the supervision;
- (1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and
  - (2) Includes, without limitation, selection, work assignment, training, work review, performance evaluation and discipline of employees.
- (d) *The employee* is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.
- (e) Except as otherwise provided in this paragraph, *the employee is conducting* a formal training program for employees. The training program must:
- (1) Be conducted weekly;
  - (2) Consist of training on the job and in the classroom or training only in the classroom;
  - (3) Include a test to determine the employees' progress in the program; and
  - (4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees will not be considered for this special adjustment.

- (f) *The employee, if employed as a* law enforcement officer, is assigned to motorcycle duty.
- (g) *The employee, if employed by* the Department of Corrections, is responsible for the supervision of a group of inmates assigned to a work area of an institution and is responsible for implementing security procedures, including, without limitation:
- (1) Securing the work area from inmates who are not authorized to enter the work area;
  - (2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) *The employee* is authorized by the legislature to receive such an adjustment to his pay.

3. *An employee may receive* a special adjustment to *pay if he* occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

(a) Until the employee meets the minimum qualifications and is promoted;

(b) For 1 year after the effective date of the special adjustment to pay; or

(c) Until the date the higher level duties are removed,

whichever occurs first.

4. *Except as otherwise provided in paragraph (a) of subsection 2, any* special adjustment to pay made pursuant to subsection 2 must be revoked when the conditions justifying it cease to exist.

5. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the Department of Personnel or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the Department of Personnel receives the written request.

[Personnel Div., Rule III § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 1-26-87; 9-17-87; 12-17-87; 7-14-88; 1-22-90; 8-14-90; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; R090-02, 8-14-2002; R038-03, 10-30-2003)

#### **NAC 284.208 Compensation for dangerous duty. (NRS 284.175)**

1. *Except as otherwise provided in subsection 3, only* the following groups, under the conditions described, are entitled to receive pay for dangerous duty:

(a) Employees engaged in scuba or skin diving.

- (b) Employees who perform duties at a height of more than 16 feet above the floor in a building or 16 feet above ground level outside of a building if the work is performed on portable equipment or outside of a railed or protected area.
  - (c) All employees, except pilots, for time spent in single engine aircraft or helicopters when required to do so by the employer.
  - (d) Employees required to handle or use explosives.
2. Except as otherwise provided in this subsection *and subsection 3*, an employee who performs any dangerous duty must receive additional pay equal to 10 percent of his normal rate of pay for each hour in which he performs any dangerous duty. An exempt classified employee who performs any dangerous duty for any portion of a workday must receive the additional pay for all his regularly scheduled hours of employment on that workday.
3. *An employee described in subsection 1 is not entitled to receive pay for dangerous duty if the duties that he performs are an inherent and regular part of the duties assigned to the class of which the employee is a member. These duties need not appear in the class specification of the employee. Compensation for the performance of those duties may be made only if the duties performed by the employee would not be required of the class as a whole.*

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-17-87; 3-23-94; R082-00, 8-2-2000; R147-01, 1-22-2002; R068-03, 10-30-2003)

**NAC 284.228 Shift trading: Agreement; responsibilities. (NRS 284.155, 284.175, 284.345)**

1. An employee may enter into a written agreement to trade shifts with another employee who is employed by the same state agency if each employee who enters into the agreement:
- (a) Does so solely at his option as described in 29 C.F.R. § 553.31;
  - (b) Performs work in the same class; and
  - (c) Obtains approval to enter into the agreement from the appointing authority of the state agency that employs him.
2. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work, he is responsible for entering into a written agreement to trade shifts with another employee who satisfies the requirements of subsection 1 to ensure that the shift is worked. Except as otherwise provided in subsection 5, if the employee is unable to enter into an agreement with an employee who satisfies the requirements of subsection 1 to work the shift that he agreed to work, the state agency that employs the employee who was originally scheduled to work that shift before any agreements to trade shifts were entered into pursuant to this subsection or subsection 1 shall:
- (a) Reduce that employee's accrued annual leave or accrued compensatory time by the number of hours in the shift; or
  - (b) If that employee does not have annual leave or compensatory time available, place the employee on leave without pay for the number of hours in the shift,
- unless that employee works the shift he was originally scheduled to work.

3. Except as otherwise provided in subsection 5, if an employee works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2, the state agency that employs the employees shall pay each employee as if he had worked his regularly scheduled hours of employment on that workday.
4. The state agency that employs an employee who works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2 may exclude the hours worked by the employee pursuant to the agreement from the calculation of the hours for which the employee is entitled to receive:
  - (a) Credit for overtime work pursuant to NRS 284.180; and
  - (b) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.
5. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work because on the date that the shift occurs he no longer satisfies the requirements of subsection 1 and the other employee who is a party to the agreement has already worked the shift which he agreed to work pursuant to that agreement or another employee has worked that shift as provided in an agreement entered into pursuant to subsection 2, the state agency shall:
  - (a) Reduce the pay, *accrued annual leave or accrued compensatory time* of the employee who no longer satisfies the requirements of subsection 1 by the number of hours in the shift that was worked for him; and
  - (b) If the hours worked by the other employee pursuant to the original agreement or as provided in an agreement entered into pursuant to subsection 2 were excluded from the calculation described in subsection 3, include those hours in the calculation of the hours for which that employee is entitled to receive:
    - (1) Credit for overtime work pursuant to NRS 284.180; and
    - (2) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.
6. The appointing authority shall maintain accurate records of each agreement entered into by its employees pursuant to subsection 1 or 2.

(Added to NAC by Dep't of Personnel by R015-02, eff. 5-2-2002; R038-03, 10-30-2003)

**NAC 284.255 Holidays: Holiday pay. (NRS 284.155, 284.175, 284.345)**

1. For the purpose of this section, "holiday pay" means payment for a holiday at a nonexempt employee's normal rate of pay plus the differential rate of pay for the shift, when applicable, or compensatory time at a straight-time rate.
2. Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he is in paid status during any portion of his shift immediately preceding the holiday.
3. Except as otherwise provided in subsections 5 and 7:
  - (a) A full-time nonexempt employee whose base hours exceed 40 hours per week or 80 hours biweekly and who is in paid status during any portion of his shift immediately preceding a holiday is entitled to receive holiday pay equal to the pay he receives for his average workday. For the purposes of this paragraph:
    - (1) The average workday of a nonexempt employee is determined by dividing the total base hours of work per year by 2,088 and multiplying the quotient by 8.
    - (2) A fireman assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.
  - (b) A part-time nonexempt employee is entitled to receive holiday pay when he is in paid status during any portion of his shift immediately preceding the holiday if a holiday occurs on a *normally* scheduled workday *of the employee*. *Except as otherwise provided in this paragraph, if* such an employee is not required to work his normally scheduled workday on the holiday, the amount of holiday pay must equal the amount that he would have been paid if there had not been a holiday, *but may not exceed the equivalent of his pay for eight hours of work*.
  - (c) A:
    - (1) Full-time nonexempt employee with an innovative work week agreement may earn additional holiday pay on an hour-for-hour basis for any hours he works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his established workday as set forth in his innovative work week agreement.
    - (2) Part-time nonexempt employee may earn holiday pay on an hour-for-hour basis for any hours he works on a holiday, not to exceed *the number of hours in his established workday*.
4. If a holiday occurs on the regularly scheduled workday of a nonexempt employee and his normal schedule of work is more than 8 hours, he must be in paid status or be placed on leave without pay for any difference between his holiday pay and his normal work schedule. An appointing authority may adjust the work schedule of such an employee for the week during which the holiday occurs in lieu of placing the employee on paid leave or leave without pay.
5. A nonexempt employee who is scheduled to work on a holiday, who does not work on that holiday and who fails to report his absence to his supervisor or a designated representative as required by NAC 284.590 is not eligible to receive holiday pay.

6. A nonexempt employee whose employment begins on a holiday is eligible to receive holiday pay pursuant to subsections 2 and 3 if he is in paid status during his scheduled shift.
7. A nonexempt employee whose employment is terminated:
  - (a) The day immediately preceding a holiday is not entitled to receive holiday pay for that holiday.
  - (b) *Except as otherwise provided in paragraph (c) of subsection 3, on a holiday on which he is working must be paid holiday pay for the actual hours he works on the holiday. If a nonexempt employee gives notice that he is terminating his employment on a holiday and he is not scheduled to work on the holiday, the last day on which he works or is in paid status is his date of termination.*
8. The agency that lists a nonexempt employee as an “employee of record” on a holiday is responsible for the payment of holiday pay for that holiday to that employee. For the purposes of this subsection, an “employee of record” is a person employed by the state agency that is required to claim the person as an employee of the agency.
9. The salary of an exempt classified or exempt unclassified employee is not affected by a holiday.  
[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]—(NAC A by Dep’t of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99; R058-01, 9-6-2001; R147-01, 1-22-2002; R096-03, 10-30-2003)

**NAC 284.284 Longevity pay: Return to state service.** (NRS 284.155, 284.175, 284.177)

1. An employee who was eligible for longevity pay and who separated from state service before July 1, 1981, and returns to state service retains his eligibility for longevity pay.
2. For the purposes of this section, the employee will receive the same semiannual rate of payment that he received at the time of his separation from service. However, the employee may not receive any semiannual increases until he has again served the same number of years without a break in service that he had served at the time of his separation from service plus 1 year.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A by R147-01, 1-22-2002; R038-03, 10-30-2003)

**NAC 284.414 Temporary appointments.** (NRS 284.155, 284.175, 284.325)

1. A temporary appointment must not exceed 6 months in any 12-month period unless the appointment is authorized:
  - (a) *As a replacement for an employee who is :*
    - (1) *Receiving* benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; *or*
    - (2) *On leave of absence for active military service pursuant to NRS 281.145.*
  - (b) *To allow an employee to perform duties below the journey level while he is studying or training for advancement to an entry level professional class.*

The appointing authority shall indicate the probable duration of employment on its request for certification. Upon receipt of this request, the Department *of Personnel* will certify the names of eligible persons from the appropriate eligible list who have noted that they will accept employment for the duration of the employment indicated.

2. Service under a temporary appointment immediately preceding appointment to a permanent position must be credited towards annual leave and merit pay increases. Sick leave may be earned for each month of service pursuant to NRS 284.355.
3. A special temporary appointment to a position within the University and Community College System of Nevada may not be used to fill regularly budgeted positions. Such appointments may be made without regard to the rules on certification or appointment and may be made on forms and under procedures prescribed by the University and Community College System of Nevada and approved by the Department *of Personnel*. Time served under a special temporary appointment pursuant to this subsection may be credited towards annual leave, sick leave or merit pay increases if the temporary appointment is immediately followed by a probationary or a permanent appointment.

[Personnel Div., Rule VI § I, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-22-87; 7-21-89; R147-01, 1-22-2002; R096-03, 10-30-2003)

**NAC 284.468 Standards for performance of work.**

1. A standard for the performance of work is a written statement *prepared on a form prescribed by the Department of Personnel* of the *results or behavior, or both, expected* of an employee when the *job elements of the employee's position are* satisfactorily performed under existing working conditions. Standards are required for all classified positions
2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the *initial* standards, but the employee must be *given the opportunity to provide comments when* the standards for his position *are revised*.
3. *The appointing authority has final approval of the standards for a position.*
4. Standards must be reviewed annually and amended when appropriate.
5. Each employee must be provided with a copy of the standards for his position.
6. *As used in this section, "job elements" means the principle assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.*

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; R038-03, 10-30-2003; R068-03, 10-30-2003)

**NAC 284.470 Preparation and discussion of reports; request for review. (NRS 284.155, 284.175, 284.335, 284.338, 284.340)**

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the department of personnel.
3. *A report on performance must be filed at the times prescribed by NRS 284.340, but may be filed more frequently at the discretion of the supervisor of the employee.*
4. When a report on performance is given which reports the overall rating of performance of an employee as substandard:
  - (a) *The report* must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay; *and*
  - (b) *An additional report on the performance of the employee must, in accordance with subsection 4 of NRS 284.340, be filed at least once every 90 days after the initial report that includes the substandard rating until the performance of the employee improves to standard or disciplinary action is taken against the employee.*
5. Except as otherwise provided in subsection 6, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. Within 10 working days after the discussion takes place:
  - (a) *The employee* must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the *reviewing officer or* appointing authority.
  - (b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify the specific points of disagreement, if such specificity is provided, *and return the response to his supervisor*. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request.
6. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 5 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. *Within 10 working days after the date on which the employee receives the report:*
  - (a) *The employee* must complete and sign the appropriate section on the report *on performance* and mail the report to his supervisor for forwarding to the appointing authority *or reviewing officer*.
  - (b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify any specific point of disagreement, if the report provides such specificity, *and* mail his response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request for review from the employee. For the purposes of this *paragraph*, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.
7. A copy of each report on performance must be *provided to the employee and* filed with the Department of Personnel. *If any written comments are added to a report on performance after a copy of the report has been provided to the employee pursuant to this subsection, a copy of the revised report which includes the written comments must be provided to the employee.*



8. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection **5 or 6**.
9. If a reviewing officer fails to respond to a request for review from an employee within the time required by this section, the employee may institute the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.695, inclusive.

[Personnel Div., Rule IX § A, eff. 8-11-73; A 12-28-75]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 10-18-89; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R197-99, 1-26-2000; R147-01, 1-22-2002; R069-02, 8-14-2002; R096-03, 10-30-2003)

**NAC 284.524 Workweeks and workdays; periods for rest and meals. (NRS 284.155, 284.345)**

1. The workweek for state employees is 40 hours, except that workweeks of a different number of hours may be established to meet the needs of different state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work shift. A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.
2. Except as otherwise provided in subsections 3 and 4, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:
  - (a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 5 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.
  - (b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.
3. The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.
4. The requirement for a rest period does not apply to an employee of:
  - (a) A correctional institution who **works** directly with the inmates at the institution.
  - (b) The Division of Mental Health and Developmental Services of the Department of Human Resources who:
    - (1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day; and
    - (2) Works a straight 8-hour work shift.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-20-90; 8-1-91; 11-12-93; R031-98, 4-17-98; R098-99, 9-27-99; R068-03, 10-30-2003).

**NAC 284.52315 “Child” defined.** “Child” means a person who is:

1. A biological, adopted or foster child, a stepchild, a legal ward or the child of a person with the daily responsibility of caring for and financially supporting that child; and
2. Except as otherwise provided in NAC 284.5235 *and* 284.562, under 18 years of age or is 18 years of age or older and incapable of caring for himself because of a mental or physical disability.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94; R096-03, 10-30-2003)

**NAC 284.525 Reduction of hours by mutual agreement.** *Except with respect to a leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580,* an appointing authority and an employee may reduce the employee’s working hours to less than full-time *by mutual agreement.*

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; R096-03, 10-30-2003)

**NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.** (NRS 284.155, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service with the state after he has completed 3 years of continuous service. The employee must requalify after each break in service.
2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.
3. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.
4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.
5. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.
6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year *after* his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.

7. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.
8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.
9. If a nonclassified employee, an unclassified employee of the University and Community College System of Nevada, or an employee included in the *State* Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, *his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, University, or governmental agency employment and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection* may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual *as set forth in NRS 284.350 and NAC 284.538*. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility *of the employee who is transferring annual leave* to seek payment of any excess amount of annual leave remaining to his credit from his former employer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; R096-03, 10-30-2003)

**NAC 284.580 Leave of absence without pay during fiscal emergency of state. (NRS 284.175, 284.345, 284.360)**

1. *Upon the request of* an appointing authority, *the Department of Administration* may *authorize the appointing authority to place a nonexempt employee on* a leave of absence without pay for a fiscal emergency of the State *or an agency* during any period for which the governor has declared that the State *or an agency* will experience a shortfall in revenue or for any other reason is in a state of fiscal emergency.
2. *All employees in the same classification must be treated equitably with respect to being placed on a leave of absence without pay pursuant to this section unless an employee volunteers to be placed on such a leave of absence.*
3. The appointing authority shall reduce the pay of an employee *who is placed on* a leave of absence *without pay* pursuant to subsection 1 by an amount equal to the pay that the employee would otherwise receive for the hours for which the leave is approved.
4. The hours for which payment is withheld pursuant to subsection 3:
  - (a) Must be treated as hours in paid status for the purposes of NAC 284.182, 284.255, 284.282, 284.448, 284.538, 284.5385, 284.544 and 284.614.
  - (b) Must not be considered as time worked in calculating overtime.
5. *Regardless of whether an employee volunteers to be placed on a leave of absence pursuant to subsection 1, after* notifying the employee in writing and allowing a reasonable period for the employee to return to work, an appointing authority:

- (a) Shall revoke *the placement of any employee on a leave of absence without pay* pursuant to subsection 1 upon a declaration by the governor that the fiscal emergency no longer exists.
- (b) May revoke *the placement of any employee on any leave of absence without pay* pursuant to subsection 1 for any other bona fide reason.

(Added to NAC by Dep't of Personnel, eff. 9-16-92; A 11-12-93; 3-23-94; R147-01, 1-22-2002; R096-03, 10-30-2003)

**NAC 284.5811 Family and medical leave: Maximum amount in 12-month period. (NRS 284.345)**

1. The entitlement for family and medical leave for an eligible employee is limited to a total of 12 weeks during a rolling 12-month period.
2. To calculate *eligibility for leave pursuant to the Family and Medical Leave Act*, *each hour that an employee is in paid status in the 12-month period immediately preceding the leave* must be considered as time worked.
3. *Except as otherwise provided in subsection 4, an employee who meets the requirements for eligibility for leave pursuant to the Family and Medical Leave Act must exhaust his accrued sick leave, accrued annual leave, catastrophic leave and holiday pay before he may use leave of absence without pay for leave granted pursuant to the Family and Medical Leave Act. Such accrued sick leave, accrued annual leave, catastrophic leave and holiday pay runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, annual leave, catastrophic leave or holiday pay.*
4. *If an employee is absent from work as the result of a work-related injury or illness and he meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:*
  - (a) *Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and*
  - (b) *The employee may elect to use paid leave for the portion of time that he is not being compensated for the work-related injury or illness.*
5. *Any leave granted pursuant to this section must be supported by medical documentation and approved by the appointing authority*
6. As used in this section, a "rolling 12-month period" means the 12-month period as measured backward from the date an employee uses any family and medical leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; R096-03, 10-30-2003)

**NAC 284.589 Administrative leave with pay. (NRS 284.155, 284.345)**

1. An appointing authority may grant administrative leave with pay to an employee:
  - (a) To relieve *the employee* of his duties during the active investigation of a suspected criminal violation or the investigation of an alleged wrongdoing;
  - (b) *For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his position;*
  - (c) *For up to 30 days to remove the employee from the work environment when he has committed or threatened to commit an act of violence;*
  - (d) For up to 2 hours to donate blood; or
  - (e) To relieve *the employee* of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
2. *The appointing authority, upon approval of the Risk Management Division of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.*
3. Except as otherwise provided in subsection 4, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:
  - (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.
  - (b) Closure of the employee's office or worksite caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.
  - (c) His appearance as an aggrieved employee or a witness at a hearing of the Committee.
  - (d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Department of Personnel.
  - (e) His appearance to provide testimony at a meeting of the commission.
4. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 3 if:
  - (a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;
  - (b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and
  - (c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

5. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:
  - (a) The initial appointment and one follow-up appointment if the employee receives counseling through the employee assistance program.
  - (b) His attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.
  - (c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.
  - (d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; R038-03, 10-30-2003)

**NAC 284.612 Layoffs: Definitions. (NRS 284.155)** For the purposes of NAC 284.612 to 284.630, inclusive:

1. "Geographical location" means:
  - (a) Clark, Lincoln, Nye and Esmeralda counties;
  - (b) Carson City, Lyon, Churchill, Storey, Douglas, Mineral and Washoe counties;
  - (c) Pershing, Humboldt, Elko, Lander, Eureka and White Pine counties; or
  - (d) Any city located outside of this state.
2. "Option" means a clearly identified subclassification mentioned in the class specification approved by the commission.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 7-21-89; 11-16-95; R146-01, 1-18-2002; R096-03, 10-30-2003)

**NAC 284.614 Layoffs: Procedure. (NRS 284.155, 284.335, 284.380)**

1. Except as otherwise provided in NAC 284.438, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:
  - (a) The *director* of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the department of human resources and the University and Community College System of Nevada, the administrator of a division, with the approval of the director of the department, shall determine in what geographical location, class series, class and option the reduction of

staff will have the least detrimental effect on operations and shall specify the layoffs accordingly.

- (b) Within the department, and within the geographical location, class series, class and option selected, all employees of the department who are not permanent must be *separated from service* before any permanent employees in the following order:
    - (1) Emergency employees.
    - (2) Temporary employees.
    - (3) Provisional employees.
    - (4) Probationary employees.
  - (c) If additional reductions are necessary, permanent employees must be laid off on the basis of *seniority*.
  - (d) In the department and within the geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off, *transferred as set forth in subsection 2 or voluntarily demoted as set forth in NAC 284.618*.
  - (e) For the purposes of this subsection, an appointing authority may consider whether positions are full-time or part-time and limit layoffs to full-time or part-time employees. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.378.
2. *If a permanent employee must be laid off for the reasons set forth in subsection 1, the appointing authority of the employee shall notify the employee that the employee may choose to:*
- (a) *Transfer within his department, class and option into the position of the employee in his department, class and option with the least seniority;*
  - (b) *Be voluntarily demoted as set forth in NAC 284.618; or*
  - (c) *Exercise his reemployment rights as set forth in NAC 284.630.*
3. *Within 3 working days after an employee has been notified of his choices regarding layoff, transfer, and voluntary demotion pursuant to subsection 2, the employee must designate in writing to the appointing authority the choice that the employee will exercise.*

[Personnel Div., Rule XIII § B subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-28-85; 8-22-86; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R146-01, 1-18-2002; R147-01, 1-22-2002; R096-03, 10-30-2003)

**NAC 284.618 Layoffs: Voluntary demotions. (NRS 284.155, 284.175)**

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted within the department and geographical location where employed to one of the next lower classes:
  - (a) Within his current class series and option and may displace an employee therein; or
  - (b) Within the class series and option from which he was appointed during current continuous service and may displace an employee therein but only if he cannot be demoted pursuant to paragraph (a).

For the purposes of this *subsection*, divisions of the Department of Human Resources and the University and Community College System of Nevada are considered departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.
3. The employees displaced reestablish the layoff class.
4. An employee may choose to displace another only if he meets the minimum qualifications for the class, option and position from which the other will be displaced. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection 2 of NAC 284.378.
5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.
6. Displacement is always a downward movement, never a lateral movement.
7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.
8. The pay of the employee *who is taking a voluntarily demotion* cannot exceed the highest step for the *class to which the employee is being demoted*. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division *of the Department of Administration* or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

[Personnel Div., Rule XIII § B subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; R146-01, 1-18-2002; R096-03, 10-30-2003)

**NAC 284.662 Providing assistance to employee.**

1. An employee filing for a review of a grievance may be assisted or represented by any person of his choosing, if the person agrees to act in this capacity, at any step of the procedure except the initial informal discussion with his immediate supervisor.
2. If the assistant is a state employee, he may only assist on his own time.
3. An employee may not be discriminated against in recruitment, examination, appointment, training, promotion, retention, classification or any other personnel action for informally



seeking or formally filing a request to have his grievance reviewed, testifying on behalf of another employee, helping another employee prepare a grievance report or acting as a representative of any employee requesting a review of a grievance.

4. To assist in resolving an employee's grievance, the resources and consultation available *from* the Department of Personnel and the personnel offices of the agency must be made available to all parties.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; R096-03, 10-30-2003)

**NAC 284.718 Confidential records. (NRS 284.155, 284.407)**

1. The following types of information, which are maintained by the department of personnel or the personnel office of an agency, are confidential:
  - (a) Information relating to salaries paid in other than governmental employment which is furnished to the department of personnel on the condition that the source remain confidential;
  - (b) Any document which is used by the department of personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;
  - (c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;
  - (d) Materials used in examinations, including suggested answers for oral examinations;
  - (e) Records and files maintained by the employee assistance program;
  - (f) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;
  - (g) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;
  - (h) Any information contained on a person's application or relating to his status as an eligible person; and
  - (i) Information in *the* file or record of employment *of a current or former employee* which relates to his:
    - (1) Performance;
    - (2) Conduct, including any disciplinary actions taken against him;
    - (3) Race, ethnic identity or affiliation, sex, disability or date of birth;
    - (4) Home telephone number; *or*
    - (5) *Social security number.*
2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:
  - (a) The employee dies; or
  - (b) The employee signs a release.
4. *Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.*

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; R068-03, 10-30-2003)

**NAC 284.726 Access to confidential records.** (NRS 284.155, 284.175, 284.335, 284.407)

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.
2. Except as otherwise provided in subsection 3, access to an employee's file of employment containing any of the items listed in paragraphs (f) to (i), inclusive, of subsection 1 of NAC 284.718 is limited to:
  - (a) The employee.
  - (b) The employee's representative when a signed authorization from the employee is presented or is in his employment file.
  - (c) The appointing authority or a designated representative of the agency by which the employee is employed.
  - (d) The Director or his designated representative.
  - (e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.
  - (f) Persons who are authorized pursuant to any state or federal law or an order of a court.
  - (g) The state board of examiners if the board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.
  - (h) *Persons who are involved in processing records for the transaction of business within and between state agencies.*
  - (i) *Persons who are involved in processing records for the transaction of business that is authorized by the employee.*
3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet.

*Except as otherwise provided for in subsection 6, access* to such information is limited to the employee, his current supervisor, and the appointing authority or his designated representative.

4. Except as otherwise provided by specific statute, records maintained by the employee assistance program must not be released without written permission signed by the employee to whom the records pertain.
5. Upon request, the Department of Personnel will provide the personal mailing address of any employee on file with the Department to the State Controller's Office and the Internal Revenue Service.
6. The Director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the Committee, a hearings officer, the Commission, *the Committee on Catastrophic Leave created pursuant to NRS 284.3627*, the Nevada Equal Rights Commission or a court. If the Director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; R068-03, 10-30-2003)

**New Section. *Required training of all state employees: sexual harassment prevention.***

- 1. *Within 6 months after an employee is initially appointed to state service, the employee shall attend a certified class concerning the prevention of sexual harassment.***
- 2. *At least once every 2 years after his initial appointment to state service, an employee shall attend a certified refresher class or training concerning the prevention of sexual harassment.***
- 3. *An appointing authority may require an employee to retake any part or all of the classes or training required by subsection 1 and 2, or to participate in any additional classes or training deemed necessary by the appointing authority.***
- 4. *The appointing authority shall retain the proof of completion by an employee of a class or training required by this section.***
- 5. *The Department of Personnel will certify the classes and training concerning the prevention of sexual harassment required by this section.***

(Added to NAC by Dep't of Personnel by R096-03, eff. 1-1-2004)

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